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Key Employer Reporting Facts and Tips

Sections 6055 and 6056 of the Affordable Care Act (ACA) are critical linchpins that implement the individual and employer mandates. These sections require that exchanges, insurers, self-funded health plans and employers report to the IRS and covered individuals on coverage provided or received.

Completion of these forms is complicated, especially for larger employers subject to the employer shared responsibility provisions of the Act. Applicable large employers can expect to spend hours completing the forms, in addition to the hours spent tracking and compiling required information.

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A letter from Karen Knippen

The employer reporting requirements are among the final pieces of the ACA puzzle. The sole remaining significant piece is the implementation of the excise – Cadillac – tax.

Will the employer reporting requirements be delayed or repealed? While nothing is certain, repeal or delay is unlikely. Why? Because the reporting requirements provide information necessary to determine whether individuals meet their requirements to have coverage. Also, the employer's offer of coverage and reporting of it addresses the employer mandate and subsidy eligibility for individuals who purchase coverage in the exchange.

Remember, Euclid Managers is great with puzzles – whether it's ACA or helping you and your clients piece together great health insurance and employee benefit options. We've got all the pieces you're looking for!

Sincerely yours,

Karen Knippen, RHU, REBC, CLTC
Senior Vice President

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The IRS estimates that an employer will spend four (4) hours completing the 1094-C. The 1095-C form which is completed for all full-time employees requires 12 minutes per employee. Given this, an employer with 100 full-time employees will spend at least 24 hours completing these reporting forms! And, administration agency estimates of time to complete a requirement such as these reports are often more optimistic than actual experience will find.

The Good News for Small Employers

Small employers will have little, if any, reporting obligations under ACA. **Small employers that have fewer than 50 full-time and full-time equivalent employees and who offer insured health plans don't have to complete any reports.** The insurance company will report on covered individuals via forms 1094-B and 1095-B.

Insurers may have asked employers to assist them in determining the social security numbers of covered spouses and dependents.

Small employers that offer self-insured health plans will have to report on enrolled employees using forms 1094-B and 1095-B as they are, for all purposes, acting as the insurer. A small employer that offers an insured health plan that meets minimum essential coverage in addition to a self-funded HRA (health reimbursement arrangement) does not have to file forms for employees covered by the insured plan solely to report the HRA plan; this was a welcome revision from the prior form's instructions. Instead, an employer will only have to report for an employee who is not covered by the employer's plan but receives the HRA benefit.

ALEs Must Report Starting 2015

All employers who meet the requirements to be an ALE, i.e., they have 50 or more full-time and full-time equivalent employees, will have to report on the coverage offered to employees for calendar year 2015. There is no transition relief from the reporting requirement. ALEs will generally report using forms 1094-C and 1095-C.

Forms 1095-C are due to covered individuals on or before the last day of January. However, since January 31, 2016 falls on a Sunday, the due date for 2016 is **February 1, 2016.** Forms are due to the IRS on the last day of February or last day of March, if filed electronically. Employers can obtain an automatic 30 days extension for forms that are filed with the IRS by completing Form 8809 in advance of the ordinary filing date. There is no automatic extension available to extend the due date for furnishing statements to recipients (employees).

Electronic filing is required if an employer files 250 or more of the same type of information. Employers must register to electronically file information returns using the AIR – Affordable Care Act Information Returns – Program.

Form 1094-C

Form 1094-C is the form used to transmit the returns to the IRS. The final 2015 form can be found at irs.gov/form1094-C.

Tips for completing this form include:

- Whether the employer is part of an aggregated (controlled) group
- What the EIN number (employer identification number) is for the employer
- The employer's address; it must match the address the employer uses on form 1095-C
- The person the employer trusts to address any questions from the IRS
- If an employer is part of an aggregated group; the names of other members of the aggregated group.

Line 22 has proven to be a confusing line. This line certifies whether employers are eligible for up to four (4) different kinds of relief. The requirements for each of the "certifications of eligibility" can be found in the form's instructions. The certifications are:

- A. Qualifying Offer Method
- B. Qualifying Offer Method Transition Relief
- C. Section 4980H Transition Relief
- D. 98% Offer Method.

Each of the types of relief has different requirements and different “rewards” related to the type of relief. Not all employers will qualify for any of these “certifications of eligibility” while some may qualify for more than one (1).

Many employers will be eligible for the Section 4980H Transition Relief, and will want to attest to their eligibility for this relief. This is the transition relief that delays some or all of the employer shared responsibility penalties beyond January 1, 2015.

Part III requires a month-by-month report of the full-time employee count and the total employee count. This section is used to assess whether an employer is going to be subject to the 4980H (a) penalty, the “no offer” penalty.

For purposes of this section, an employee in a limited non-assessment period is not considered a full-time employee. A limited non-assessment period may be:

- The initial waiting period for a new full-time employee
- An employee’s initial measurement period and administrative period
- The period after an employee experiences a change to full-time employee status during the initial measurement period, under the look back measurement method.

Form 1095-C

This is the form that an employer completes and provides to full-time employees and the IRS. Lines 14, 15 and 16 are the lines of the form that are most important and also most confusing. These lines relate to whether or not an employer will be subject to the 4980H (b) penalty.

Line 14 addresses whether the employer has made an offer of coverage to the employee. An employer offers coverage for a month only if the offer of coverage applies for every day of the calendar month. **Employers will indicate the relevant codes from the first series of codes for each month for an employee.** If the offer of

coverage varied during the year, then the codes will also vary throughout the year.

Line 15 addresses affordability of coverage. Employers should enter the lowest-cost monthly premium for self-only minimum value coverage offered to the employee. This amount may not be the amount the employee is paying for coverage.

Line 16 is the line where the employer indicates why there is no exposure to the B penalty. For example, if coverage is not affordable and if the employee does not enroll in coverage, line 16 would be left blank. This would signal a possible penalty for the employer if the employee qualifies for a premium tax credit in the months following any non-assessment periods.

Line 16 coding uses the second series of codes. Codes 2F, 2G and 2H relate to the affordability safe harbor codes. Code 2I is the code to use if non-calendar year transition relief applies to the employee.

Part III of this form is only used if the employer’s plan is self-insured. Part III serves the same purpose as the 1095-B form than an insurer would complete and is necessary because the employer is the “insurer” as a self-funded employer.

Penalties and Good Faith Compliance

Employers face significant penalties if they fail to file or delay filing these returns to the IRS. If there is intentional disregard of the reporting requirement, the penalty is \$500 per form. Other penalties for late filing range from \$50 to \$250 per form with a cap on the maximum penalty.

Reporting is not an easy task, as this brief overview has demonstrated. Recognizing this, the IRS has stated that penalties will not accrue or will reflect an employer’s “good faith compliance.” The term “good faith compliance” is not readily defined, so employers are wise to take all reasonable steps to meet the reporting requirements on a timely basis.

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